

AMENDED IN ASSEMBLY APRIL 19, 2005

AMENDED IN ASSEMBLY APRIL 6, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 746

Introduced by Assembly Member Blakeslee

February 17, 2005

An act to *amend Section 1748.1 of the Civil Code, and to add Section 755 to the Public Utilities Code*, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 746, as amended, Blakeslee. Public utilities: *payment of billings*.

Existing law authorizes the Public Utilities Commission to supervise and regulate every public utility in the state, including an electrical corporation. Existing law authorizes the commission to establish rules for all public utilities, subject to control by the Legislature. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable.

Existing law prohibits any retailer in a sales, service, or lease transaction with a consumer, from imposing a surcharge on a cardholder who elects to use a credit card in lieu of payment by cash, check, or similar means.

This bill would require the commission to authorize an electrical corporation to offer convenient bill payment methods to customers, including credit card and debit card payment options, ~~subject to the payment of reasonable transaction related fees.~~ *The bill would authorize an electrical corporation to pass on reasonable transaction costs incurred by the electrical corporation in the form of fees*

charged to those customers that choose to pay by those payment options. The commission would be required to determine the reasonableness of any transaction fees charged to customers that choose to pay by a convenient bill payment option and to ensure that no portion of any additional transaction costs incurred is shifted to customers that do not choose to pay a bill by credit card, debit card, or other convenient payment option. The bill would require that any transaction costs passed on in the form of fees charged to customers choosing to pay by a convenient payment option are offset by any savings in transaction costs the electrical corporation derives as a result of those customers choosing to pay by those methods.

The bill would exclude from the existing prohibition upon a retailer imposing a surcharge on a cardholder who elects to use a credit card in lieu of payment by cash, check, or similar means, a charge by an electrical corporation that is approved by the commission pursuant to the provisions that would be added by this bill.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1748.1 of the Civil Code is amended to
2 read:

3 1748.1. (a) No retailer in any sales, service, or lease
4 transaction with a consumer may impose a surcharge on a
5 cardholder who elects to use a credit card in lieu of payment by
6 cash, check, or similar means. A retailer may, however, offer
7 discounts for the purpose of inducing payment by cash, check, or
8 other means not involving the use of a credit card, provided that
9 the discount is offered to all prospective buyers.

10 (b) Any retailer who willfully violates this section by
11 imposing a surcharge on a cardholder who elects to use a credit
12 card and who fails to pay that amount to the cardholder within 30
13 days of a written demand by the cardholder of the retailer by
14 certified mail, shall be liable to the cardholder for three times the
15 amount at which actual damages are assessed. The cardholder
16 shall also be entitled to recover reasonable attorney's fees and
17 costs incurred in the action.

1 A cause of action under this section may be brought in small
2 claims court, if it does not exceed the jurisdiction of that court, or
3 in any other appropriate court.

4 (c) A consumer shall not be deemed to have elected to use a
5 credit card in lieu of another means of payment for purposes of
6 this section in a transaction with a retailer if only credit cards are
7 accepted by that retailer in payment for an order made by a
8 consumer over a telephone, and only cash is accepted at a public
9 store or other facility of the same retailer.

10 (d) Charges for third-party credit card guarantee services,
11 when added to the price charged by the retailer if cash were to be
12 paid, shall be deemed surcharges for purposes of this section
13 even if they are payable directly to the third party or are charged
14 separately.

15 (e) It is the intent of the Legislature to promote the effective
16 operation of the free market and protect consumers from
17 deceptive price increases for goods and services by prohibiting
18 credit card surcharges and encouraging the availability of
19 discounts by those retailers who wish to offer a lower price for
20 goods and services purchased by some form of payment other
21 than credit card.

22 (f) *This section does not apply to charges for payment by*
23 *credit card or debit card that are made by an electrical*
24 *corporation and approved by the Public Utilities Commission*
25 *pursuant to Section 755 of the Public Utilities Code.*

26 **SECTION 1.**

27 **SEC. 2.** Section 755 is added to the Public Utilities Code, to
28 read:

29 ~~755. An electrical corporation may offer convenient bill~~
30 ~~payment options to customers, including credit card and debit~~
31 ~~card payment options that pass on reasonable transaction-related~~
32 ~~fees to customers utilizing those payment options.~~

33 755. (a) *It is the intent of the Legislature that an electrical*
34 *corporation that offers customers convenient bill payment*
35 *options, such as payment by credit card or debit card, may*
36 *recover the additional net expenses incurred by the electrical*
37 *corporation for providing the customers the option of paying*
38 *their bills by credit card or debit card, while ensuring that only*
39 *the customers that choose to use these payment options incur the*
40 *additional charge and that no portion of the expense is shifted to*

1 customers that do not choose to pay a bill by credit card or debit
2 card.

3 (b) An electrical corporation may offer convenient bill
4 payment options to customers, including credit card and debit
5 card payment options. The electrical corporation may pass on
6 reasonable transaction costs incurred by the electrical
7 corporation in the form of fees charged to those customers that
8 choose to pay by those payment options.

9 (c) The commission shall determine the reasonableness of any
10 transaction fees charged to customers that choose to pay an
11 electrical corporation by a convenient bill payment option
12 pursuant to this section. The commission shall ensure that only
13 customers that choose to use convenient payment options pay for
14 the additional transaction costs incurred and that no portion of
15 those costs is shifted to customers that do not choose to pay a bill
16 by credit card or debit card or other convenient payment option.
17 The transaction costs that are passed on in the form of fees
18 charged to customers that choose to pay by a convenient
19 payment option shall be offset by any savings in transaction costs
20 the electrical corporation derives as a result of those customers
21 paying by the convenient payment option.